

Kimberly Arcoleo,

Case No.:

Plaintiff,

V.

COMPLAINT AND DEMAND FOR JURY TRIAL

Encore Receivable Management, Inc.,

Defendant.

Plaintiff, Kimberly Arcoleo (Plaintiff), through her attorneys, Krohn & Moss, Ltd., alleges the following against Defendant, Encore Receivable Management, Inc. (Defendant):

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (FDCPA).

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
3. Defendant conducts business in the state of Arizona, and therefore, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing in Maricopa, Pinal County, Arizona.

4 6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to
5 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

6 7. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought
7 to collect a consumer debt from Plaintiff.

8 8. Defendant is a collection agency with a business office in Olathe, Kansas.

9 9. Defendant acted through its agents, employees, officers, members, directors, heirs,
10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
11 insurers.

12 **FACTUAL ALLEGATIONS**

13 10. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor,
14 Bank of America, with an account number ending in 2818.

15 11. Plaintiff's alleged debt owed to Bank of America arises from transactions for personal,
16 family, and household purposes.

17 12. Starting in approximately June of 2011, Defendant began calling Plaintiff at home (520-
18 568-46xx) and at work (602-496-09xx) in an attempt to collect the owed to Bank of
19 America.

20 13. Defendant called Plaintiff from 866-367-8753, a telephone number that belongs to
21 Defendant.

22 14. From June 2 through June 14, 2011, Defendant called Plaintiff approximately fifty (50)
23 times in an attempt to collect a debt on behalf of Bank of America.

24 15. From June 2 through June 14, 2011, Defendant called Plaintiff multiple times a day in an
25 attempt to collect a debt on behalf of Bank of America.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:

a. Defendant violated §1692d of the FDCPA by engaging in conduct that the natural consequences of which was to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt.

b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

WHEREFORE, Plaintiff, Kimberly Arcoleo, respectfully requests judgment be entered against Defendant, Encore Receivable Management, Inc., for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k

19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Kimberly Arcoleo, demands a jury trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: June 29, 2011

KROHN & MOSS, LTD.

By: /s/ Ryan Lee

Ryan Lee
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

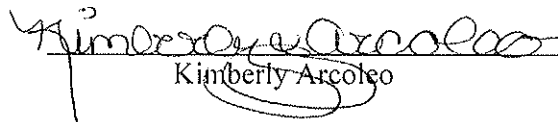
STATE OF ARIZONA

Plaintiff, Kimberly Arcoleo, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Kimberly Arcoleo, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 6/30/11


Kimberly Arcoleo